



**IT IS ORDERED as set forth below:**

**Date: October 15, 2018**

*Wendy L. Hagenau*

Wendy L. Hagenau  
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CASE NO. 16-54770-WLH
	)	
COLLEEN PATRICIA BRANNON,	)	CHAPTER 7
	)	
Debtor.	)	JUDGE WENDY L. HAGENAU
_____	)	
	)	
JASON L. PETTIE, Chapter 7 Trustee	)	
for the Estate of Colleen Patricia Brannon,	)	
	)	
Movant,	)	
	)	
v.	)	
	)	
BENJAMIN T. POLK,	)	
	)	
Respondent.	)	
_____	)	

**ORDER ON TRUSTEE'S MOTION  
TO HOLD BENAJMIN T. POLK IN CONTEMPT OF COURT**

This matter came before the Court for a hearing on October 4, 2018 (the “**Hearing**”) on *Trustee’s Motion to Hold Benjamin T. Polk in Contempt of Court* [Doc. No. 25] (the “**Contempt**”

**Motion**”) filed by Jason L. Pettie, Chapter 7 Trustee (the “**Trustee**”) for the bankruptcy estate (the “**Estate**”) of Colleen Patricia Brannon (the “**Debtor**”), by and through his undersigned counsel.

By way of background, on September 7, 2016, Trustee filed a *Complaint* [Doc. No. 17] against Regions Bank, Benjamin T. Polk (“**Mr. Polk**”) and Debtor, initiating Adversary Proceeding No. 16-05212-WLH [A.P. Doc. No. 1], which, *inter alia*, sought authority to sell co-owned property under 11 U.S.C. § 363(h). On April 6, 2018, the Court entered an *Order Granting Summary Judgement* [A.P. Doc. No. 37], that granted the relief requested by Trustee including to sell both the Estate’s interest and Mr. Polk’s interest in the Property under 11 U.S.C. § 363(h) (“**Summary Judgment Order**”).

On July 30, 2018, the Court entered an *Order* [Doc. No. 23], approving the employment of Southside Realtors and Duane Lockwood (collectively, the “**Realtor**”) as his listing agent for the Property, at a starting listing price of \$123,000.00 and a six percent (6%) commission of the selling price (the “**Realtor Order**”).

On September 13, 2018, Trustee filed the Contempt Motion, asserting that Mr. Polk failed and refused to (a) comply with the terms of the Summary Judgment Order, (b) allow the Property to be marketed for sale, (c) allow a for-sale sign to be placed in the front yard or a lockbox on the door, and (d) allow photos to be taken of the inside of the Property.

Mr. Polk appeared at the Hearing as did Trustee and his counsel. Having reviewed the Contempt Motion, and based upon the representations made by Trustee and his counsel, arguments made by Mr. Polk, the record in this case, and for good cause having been shown, it is hereby

ORDERED that Mr. Polk shall (a) cooperate with Trustee in all respects reasonably necessary for the sale of the Property; (b) furnish his cell phone number and any other number necessary to reach him to the Realtor so the Realtor can arrange for showings of the Property;

(c) allow (i) a For-Sale sign to be placed in the front yard, and (ii) Realtor to take photos of the interior of the Property; (d) reasonably cooperate with Trustee's Realtor and other agents showing the Property; (e) provide access to the Property upon one (1)-hour telephonic notice to Mr. Polk of any showing or inspection PROVIDED that Mr. Polk may be in attendance at any showing and may provide potential purchasers with the list of items needed at the Property which he presented to the Court and PROVIDED FURTHER that such access need not be provided by Mr. Polk at times his son is with him. Mr. Polk is directed to provide Realtor and Trustee within ten (10) days of the date of this Order a schedule of his son's visits through March 2019; (f) keep the Property in a reasonably clean and orderly condition; and (g) vacate the Property prior to any closing on the sale thereof, leaving the Property in a clean, broom-swept condition with all appliances, fixtures, and appurtenances intact and undamaged. It is further

ORDERED that Trustee's Realtor shall notate in the Property's listing that potential buyers must coordinate with Realtor to view the Property. It is further

ORDERED that this Order is entered without prejudice to either Trustee or Mr. Polk seeking further relief or direction.

**### END OF ORDER ###**

Prepared and presented by:

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